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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 14 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Petition of the People of the)
State of California and the)
Public Utilities Commission)
of the State of California to) PR File No. 94-SP3
Retain State Regulatory)
Authority Over Intrastate)
Cellular Service Rates)

To: The Commission

MOTION TO DEFER FILING DATES

Cellular Resellers Association, Inc. ("CRA"), Cellular Service, Inc. ("CSI"), and ComTech Mobile Telephone Company ("ComTech") hereby move the Commission to defer the filing of replies to the oppositions to the above-referenced petition (the "Petition") to either (a) two (2) weeks after the opposing parties file any supplemental comments based on disclosure of confidential information referenced in the Petition or (b) two (2) weeks after the Commission issues a decision denying access to such confidential information. Grant of the instant motion would save the Commission and the parties considerable time in the drafting and consideration of pleadings and facilitate a quicker decision on the Petition. In support of that conclusion, the following is stated:

1. CRA, CSI and ComTech filed joint comments in support of the Petition. Numerous other parties filed oppositions. Replies to those oppositions are presently due to be filed on October 19, 1994.

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2. A principal issue raised in the oppositions concerns the Petition's reliance on confidential information and the redaction of material in the Petition which refers or otherwise relates to that confidential information. E.g., Response of Cellular Carriers Association of California (September 19, 1994) at 53-55. The confidential information has been made available to the Commission but not to all of the parties filing comments.*

3. Two (2) competing motions have been filed with the Commission concerning the Petition's reliance on confidential information. On the one hand, the National Cellular Resellers Association ("NCRA") has proposed a procedure to make the confidential information available to the parties for comment without compromising the confidential nature of the information. On the other hand, the Cellular Carriers Association of California ("CCAC") has filed a motion which seeks to bar any consideration by the Commission (or, obviously, the commenting parties) of the confidential information. Responses to those motions are due to be filed on Tuesday, October 4, 1994.

4. For its part, the Commission staff has circulated a draft order among commenting parties that would provide access to the confidential information and enable opposing parties to supplement their oppositions. The commenting parties were asked to file comments on the draft order by Friday, October 7, 1994.

* In the California proceeding, I. 93-12-007 which resulted in CPUC Dec. 94-08-022 (See Appendix N to California Petition), virtually all of the data was made available to CRA and another party pursuant to nondisclosure agreements.

Hence, it is clear that NCRA's and CCAC's motions will not be disposed of until October 11, 1994 at the earliest.

5. If the NCRA motion is granted and the CCAC motion is denied, opposing parties will be given an opportunity to supplement their oppositions after consideration of the confidential data. The State of California and its Public Utility Commission, as well as those parties supporting the Petition (which include CRA, CSI and ComTech) would then presumably be given an opportunity to supplement any pleadings filed on October 19, 1994.

6. The foregoing procedure will require a duplication of effort by those parties proposing to reply on October 19, 1994 and needlessly expand the number of pleadings (and the time involved) for consideration by the Commission. The replies filed on October 19, 1994, for example, would have to respond to the arguments of opposition pleadings filed on September 19, 1994 -- even though the arguments in those opposition pleadings will undergo numerous changes if the opposing parties file supplemental pleadings based on newly-released confidential information. The unnecessary burden on responding parties is particularly great since the opposition pleadings consist of hundreds of pages of argument, data, and expert opinion.

7. It should be emphasized, moreover, that a grant of the instant motion will expedite the Commission's consideration and disposition of the Petition. If the instant motion is not granted, the Commission will have to consider replies which may

be changed by later supplements. Conversely, if the supporting parties file only one consolidated reply (after consideration of the oppositions of September 19 and the later supplements), the Commission will not have to review arguments which have been discarded or changed.

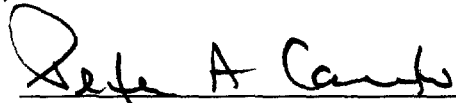
8. The foregoing analysis assumes that the Commission will make the confidential information available. If the Commission decides not to make that information available, then the replying parties will have to take that decision -- as well as the earlier arguments of the opposing parties -- into account in any pleading. If, as expected, the Commission moves quickly in deciding whether to make the confidential information available, any denial of access would result in a delay in filing responses of no more than one (1) week.

WHEREFORE, in view of the foregoing, it is respectfully requested that the instant motion be granted.

Respectfully submitted,

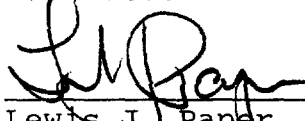
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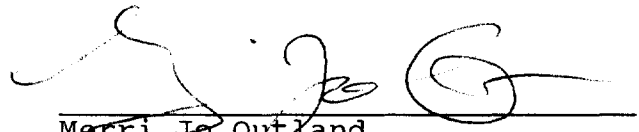
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